



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY	:	
AND MUNICIPAL EMPLOYEES, COUNCIL 93,	:	
LOCAL 2715	:	CASE NO. A-0428:16
	:	
v.	:	DECISION NO. 87-24
	:	
HILLSBOROUGH COUNTY DEPARTMENT OF	:	
CORRECTIONS	:	
	:	

APPEARANCES

Representing American Federation of State, County & Municipal Employees,
Council 93, Local 2715

James C. Anderson, Representative

Representing Hillsborough County Department of Corrections

David Horan, Esq.

Also in attendance

Richard W. Roulx, Admn., Hillsborough County
Nelson MacAskill, Admn., Hillsborough County House of Corrections
Stephen Papavlo, Sr., Local 2715
Robert R. Platek, Local 2715
James Gray, Pres., Local 2715
Bill Dann, Local 2715

BACKGROUND

On August 2, 1986, the American Federation of State, County and Municipal Employees, Council 93, Local 2715, ("Union") charged that the Hillsborough County Department of Corrections ("County") violates RSA 273-A, I (a), (b), (c) and (f) by committing unfair labor practices.

The Union charged specifically that the County had placed an employee, Stephen Papavlo, on suspension, while he was a Union Steward, and forbade him from entering the County premises thus preventing him from conducting union business. The Union alleges that Mr. Papavlo's rights under RSA 273-A were denied.

The County, in its answer, denied committing an unfair labor practice by "banishing" a former employee from the premises of the Hillsborough County House of Correction. The County alleges that Stephen Papavlo was suspended with pay on February 13, 1986 and was fired effective March 10, 1986.

The County further alleges that Papavlo was fired because he was discovered gambling in the House of Corrections with an inmate, Philip Koen, while he was suspended. The County argues that it had to forbid Papavlo from the premises or he would have control over the inmate who was part of the action against him. Further, the County alleged that a substitute steward replaced Papavlo immediately.

The County also alleged that the Union filed a grievance over this matter but failed to carry through to arbitration.

A hearing was held on January 29, 1987 at the Public Employee Labor Relations Board here in Concord, New Hampshire with all parties represented.

FINDING OF FACT:

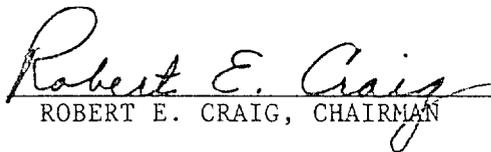
1. Mr. Papavlo was suspended February 13, 1986 and his employment was terminated on March 10, 1986. (A subsequent arbitration proceeding re-instated Papavlo who was then suspended for six (6) months without pay.
2. During his suspension, Papavlo was barred from entering the correctional facility.
3. Papavlo was an elected union steward for the House of Corrections unit at the time of his suspension and his Supervisors knew this.
4. Papavlo's lack of access to the corrective facility effectively denied him the ability to carry out his union duties in the usual way.
5. Papavlo had access to some employees via telephone during his suspension but not to all, and some employees did communicate with him this way.
6. The Director of the House of Corrections testified that Papavlo was barred from the premises in order to protect the inmate who had turned him in.
7. The inmate in question was part of a work-release program during this time and was in the community where he might have been contacted by Papavlo (no evidence was offered to this effect).
8. At the corrections facility, arrangements could have been made for Papavlo to see his union members and not have contact with the inmates.
9. At the time, the two parties were still negotiating over the new contract.
10. A substitute union steward was selected to replace Papavlo about one month after Papavlo's suspension.

RULING OF LAW

- a. Mr. Papavlo was denied access to his union members at the correctional facility and was prevented from carrying out his union duties in the usual manner of an on-site shop steward.
- b. The reason given for the barring of Papavlo from the correctional facility, i.e., to protect an inmate, is insubstantial since the inmate was often in the community on a work/release program where he was available to anyone.
- c. The Public employee Labor Relations Board cannot allow the employer to prevent a union official from carrying out his/her duties except for extraordinary reasons. No such reasons existed in this case.
- d. No "lockout" took place in this case (See Roberts' Dictionary of Industrial Relations, Rev. Edition) since negotiations were ongoing and no group of employees were denied work.

DECISION AND ORDER

- A. The Hillsborough County Department of Corrections has committed an unfair labor practice under RSA-273-A:5, I, (a) and (b) by preventing Papavlo from continuing his normal shop steward duties while he was suspended.
- B. The Department of Corrections is ordered to Cease and Desist in any actions interfering with the proper conduct of Union Officials under RSA 273-A.


ROBERT E. CRAIG, CHAIRMAN

Signed this 23rd of March, 1987

By unanimous vote. Chairman Robert E. Craig, presiding. Members Seymour Osman and Richard Molan present and voting. Also present, Evelyn C. LeBrun, Executive Director.